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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/582,776

06/13/2006

Toshiya Yamamoto

10089/31

4596

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

EXAMINER

SINGH-PANDEY, ARTI R

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

07/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/582,776 | Applicant(s) YAMAMOTO ET AL. | |
| | Examiner Arti Singh-Pandey | Art Unit 1794 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/06; 06/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 25-26 provides for the use of the nonwoven fabric, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

4. Claims 25-26 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

5. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-2 recite desired physical properties of tensile stress, and density, which are a resultant property of the fiber that is being used. *Ex parte Slob*, 157 USPQ 172, states the following with regard to an article claimed by

Art Unit: 1794

defining property values: Claims merely setting forth physical characteristics desired in article, and not setting forth specific compositions which would meet such characteristics, are invalid as vague, indefinite and functional since they cover any conceivable combination of ingredients, either presently existing or which might be discovered in future and which would impart desired characteristics; thus expression "an incandescent lamp absorption temperature of not higher than 40 degrees centigrade and a color rendering of not more than 0.4; an average absorption of not higher than 30% in the wavelength region of 780 to 1800nm and an average absorptance of not lower than 60% in the wave length region of 610 to 780 nm etc.," is too broad and indefinite since it purports to cover everything which will perform the desired functions regardless of its composition, and in effect, recites compounds by what it is desired that they do rather than what they are; expression also is too broad since it appears to read upon the materials that could not possibly be used to accomplish purposes intended. Furthermore, it is necessary that the product be described with sufficient particularity that it can be identified so that one can determine what will and will not infringe. Thus, claims 1-2 are rejected and Claims 3-26 are objected to as being dependant upon a rejected base claim.

Claim Rejections - 35 USC § 102/103

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Art Unit: 1794

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-24 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 6582818 issued to Haile et al.

USPN 6582818 issued to Haile et al. discloses the various uses of polyester fibers (abstract). The polyesters of this invention may be formed into a variety of products, especially binders for nonwoven fabrics, textile/industrial yarns and fabrics, composites and other molded articles such as those that are suitable for use in automotive applications, composites, filters, roofing materials, backing materials, linings, insulation, face masks, medical/surgical, bedding, tablecloths, napkins, hygiene and absorbent products (abstract). The fibers may be of any length, which preference given to staple fibers (column 12, lines 21+) which can be hydroentangled (column 13). The size of the fiber being used may be 1.5 to 100 denier (column 12) and formed from spinning, hydroentangling or melt blowing. In column 13 the instant patent teaches that multicomponent fibers can be used which are of the sheath core type utilizing polyester and polybutylene terephthalate (core see claim 10) along with a plethora of others listed. In column 12, a line 10+, the instant patent teaches that it well known to incorporate additives such as flame retardants. In this same column the patent states that the percentage (weight) of the fibers can be from 2-100% fibers depending on the

Art Unit: 1794

end use of the nonwoven. The nonwoven may be further laminated to a film to form a composite that is used in a number of different industries as stated above.

With regard to the claims where applicant is desiring the formation of different vehicle parts, it is the position of the Examiner that these claims are met as the patent states making such articles. However, a person having ordinary skill in the art at the time the invention was made would have found it obvious to have used the laminate of Haile et al. to make any of the articles listed in claims 8-20. One would have been motivated to do so in order to have a laminate that is lofty yet strong and durable.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arti Singh-Pandey whose telephone number is 571-272-1483. The examiner can normally be reached on M-R 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Arti Singh-Pandey/
Primary Examiner
Art Unit 1794